

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

VIRGINIA BARRERA,

Plaintiff,

v.

MTC, INC. d/b/a
MI TIERRA CAFÉ AND BAKERY,

Defendant.

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CIVIL ACTION NO. 5:10-CV-665 XR

DECLARATION OF MARK W. KIEHNE IN SUPPORT OF
ATTORNEYS' FEES AND EXPENSES

1. I, Mark W. Kiehne, declare and state as follows:
2. I am an attorney with the law firm of Davis, Cedillo & Mendoza, Inc., counsel of record for MTC, Inc. ("MTC") in this matter. I have personal knowledge of the facts set forth in this declaration and, if called to testify as a witness, could and would testify competently thereto.
3. On July 20, 2011, counsel for MTC noticed the deposition of Plaintiff Javier Andrade for July 27, 2011. Plaintiff Andrade failed to appear and MTC took its first certificate of non-appearance.
4. On September 2, 2011, counsel for MTC again noticed the deposition of Plaintiff Andrade for September 7, 2011. Again, Plaintiff Andrade failed to appear and MTC took its second certificate of non-appearance.
5. Based on the failure to appear for his deposition, Defendants moved to dismiss Plaintiff Andrade. Magistrate Primomo, after review of the Motion for Sanctions, recommended

that Plaintiff Andrade be dismissed and that he pay the reasonable expenses, including attorney's fees, incurred by MTC in preparing for and attending the deposition of Plaintiff Andrade because of his failure to appear; and further requested that MTC provide a verified statement of those expenses to the District Court.

6. In response to Court's request for a verified statement of expenses, I am providing this declaration attesting to the reasonableness of attorneys' fees of Ricardo G. Cedillo and Mark W. Kiehne related to the preparation and attendance for the deposition of Plaintiff Javier Andrade because of his failure to appear, which are set forth below:

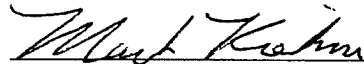
7.	Ricardo G. Cedillo -	\$750 (1 hour x \$750/hour)
	Mark W. Kiehne -	<u>\$625</u> (2.5 hours x \$250/hour)
	Total	\$1375

8. In addition, MTC incurred an additional expense in the amount of \$151.75 for the court reporter's certificate of non-appearance of Plaintiff Javier Andrade.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: March 1, 2012

DAVIS, CEDILLO & MENDOZA, INC.


Mark W. Kiehne